

CHARTER REVIEW COMMISSION

Municipal Building Conference Room
201 West Gray
Norman, Oklahoma

Thursday – September 5, 2013
5:30 p.m.

1. Call to order and Roll Call
2. Consideration of approval of the Charter Review Commission minutes of August 1, 2013.
3. Continued discussion of Article XX to consider amending or updating the Reapportionment Commission process or procedure and possible action
4. Discussion of whether or not there should be a scheduled review of the Charter within the Charter itself and possible action.
5. Adjournment.

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Continued Discussion

Article XX. Reapportionment

Background:

Article XX of Norman's Charter currently requires that there be a Reapportionment Commission whose purpose it is to review the ward boundaries in Norman to ensure that the population of each ward is equal, as nearly as practicable. Additionally, wards are to be formed "of compact, contiguous territory with boundaries drawn to reflect and respond to communities of common interest, ethnic background, and physical boundaries, to the extent reasonably possible." The Reapportionment Commission is required to refer to City Council a resolution establishing and adjusting ward boundaries to comply with these requirements within ninety (90) days of the issuance of each Federal Decennial Census. The Reapportionment Commission can also recommend reapportionment at other times, such as when property is annexed by the City or when changes are necessitated by an increase, decrease or shift in the residence of the population of the City. The current Charter provision contemplates that the Reapportionment Commission should meet at least annually. In the past, Reapportionment Commissions have studied and then proposed changes in Ward boundaries more frequently than once every 10 years.

State law (11 O.S 20-101) requires that the municipal governing body review wards and ward boundaries as soon as practicable following each federal census to ensure the wards are formed of compact and contiguous territory and are substantially equal in population. Additionally, the municipal governing body, to the extent practicable, should avoid dividing precincts established by a county election board in establishing ward or council boundaries.

During the June CRC meeting, Commission members expressed concerns that changing ward boundaries too frequently results in voter confusion.

Federal case law has addressed the question of frequency for adjustment of legislative boundaries in a number of cases. In *Reynolds v. Sims*, 377 U.S. 533, 583 (1964), the U.S. Supreme Court stated that the "[D]ecennial reapportionment appears to be a rational approach to readjustment of legislative representation in order to take into account population shifts and growth." In a review of relevant federal case law, a law review article provided the following summary:

Where there is no evidence of a legislative body refusing to redistrict yet finds itself facing an election "on the cusp of [a] decennial census," courts have generally been less apt to require either a redistricting before the election, or throwing out election results based on an old census and holding special elections, finding it more important to preserve district

stability. *French v. Boner*, 963 F. 2d 890, 891-92 (6th Cir. 1992). Courts have held that population shifts alone at the end of a ten-year census cycle do not create such an actionable claim. *Fairley v Forrest County*, 814 F. Supp. 1327 (S.D. Miss. 1993). In addition to preserving district stability, courts have found redistricting between censuses to be inherently inaccurate anyway, given that the data relied upon is necessarily from the last census, which may have been some years previous. See *Simkins v. Gressette*, 495 F. Supp. 1075 (D.S.C. 1980). However, where a state fails to redistrict because of political squabbling and not due to any rational state policy, or where an existing districting scheme is found to be discriminatory, courts have been willing to step in and order an immediate redistricting even when the result will be delay of upcoming elections or using data other than census data to form new districts. See *Farnum v. Burns*, 548 F. Supp. 769 (D.R.I. 1982).

David J. A. Bargaen, The Frequency of Redistricting in Nebraska and the Balance Between One Person, One Vote and Electoral Stability: How Often Is Too Often?, 82 Neb. L. Rev. 575, 593-94 (2003).

In talking with staff members that assist the Reapportionment Commission, other practical concerns have arisen in the reapportionment process that could be addressed through a Charter amendment. Article XX, Section 2 requires that the Commission meet on the second Monday of July of each year at 7:30pm. There have been occasions when a quorum of the Commission have not been available at the time set forth in the Charter.

Additionally, Section 3 requires the Commission to refer a resolution to the City Council establishing and readjusting ward boundaries within ninety (90) days of the issuance of the Federal Decennial Census. In Section 4, the Commission is required to hold a public hearing at least ten (10) days before the Commission votes on the resolution that will be forwarded to Council. There have been occasions when the public's input of its recommendation has warranted further study by the Commission. After additional study, if the resolution is changed, a second public hearing is required. This process is difficult to conclude within ninety (90) days.

The CRC met in July and discussed the changes proposed. The consensus of the CRC was to change the Reapportionment Commission to an *ad hoc* committee that would meet under three conditions – (1) proposed annexation or deannexation of property, (2) in response to the Federal Decennial Census, and (3) upon request of Council. With the *ad hoc* committee structure, it was felt that the language in Section 2 proscribing five year terms and instructions on how to deal with vacancies in office would no longer be necessary. The CRC also felt that lengthening the time frame set forth in Section 3 from 90 days to 180 days would address some of the practical concerns previous Reapportionment Commissions have faced regarding adequate review time. Finally, with the revised structure under which the Commission may review ward boundaries, the CRC felt the second paragraph in Section 6 was no longer applicable and should be stricken.

Amendment based on July 2013 CRC Discussion:

Section 1. – Reapportionment Commission.

There shall be a Reapportionment Commission, which shall consist of nine voting members appointed by the Council on nomination by the Mayor. All members of the Reapportionment Commission shall be registered voters of the City and shall hold no other office or position of employment in the City government.

Section 2. – ~~Composition~~Appointment and Meetings of the Reapportionment Commission.

The Reapportionment Commission shall meet to review and make recommendations on ward boundaries as follows:

- a. When the City proposes to annex or de-annex property; or
- b. During the last quarter of the calendar year prior to the release of the Federal Decennial Census and continuing through the release of the final Census; or
- c. Upon the recommendation of City Council.

In the case of proposed annexation or deannexation, members of the Reapportionment Commission shall be appointed within ninety (90) days of adoption of any such proposal. For purposes of reviewing the Federal Decennial Census, members of the Reapportionment Commission shall be appointed six (6) months prior to the year of the issuance of such census. The Reapportionment Commission's members shall be residents and registered voters of the City's wards, (one at-large and one from each ward).

~~The terms of all nine (9) voting members shall be five (5) years, beginning on July 1. The members so appointed shall, at a regular meeting July of each year subsequent to July 1, 1977, meet and elect a presiding officer and such other officers as the Commission may deem necessary to its proper function.~~

~~Vacancies shall be filled by the City Council in the manner set out hereinafter for the unexpired terms.~~

Section 3. – Criteria for Ward Boundaries.

Subsequent to the issuance of each Federal Decennial Census and ~~within ninety (90) not later than one hundred and eighty (180) days thereof~~, the Commission shall pass and refer to the City Council a resolution to establish and readjust the wards and their boundaries to comply with the requirements set out herein. Wards shall be formed so as to equalize, as nearly as practicable, the population of the several wards. In addition, each ward shall be formed of compact, contiguous territory with boundaries drawn to reflect and respond to communities of common interest, ethnic background, and physical boundaries, to the extent reasonably possible. Ward lines shall not create artificial corridors which in effect separates voters from the ward to which they most naturally belong.

Section 4. – Public hearing on proposed boundaries; votes required for passage.

At least ten (10) days before voting on the resolution, the Reapportionment Commission shall hold a public hearing thereon. At least five (5) votes shall be required for passage of the resolution, and the vote on passage shall be by roll call and shall be entered in the minutes of the Commission. A map showing the wards and their boundaries shall be appended to the resolution.

Section 5. – Council shall have final authority.

The resolution shall then be referred to the eCity Council which shall, within thirty (30) days, conduct a public hearing on the proposed resolution and adopt the resolution without modification, reject the resolution, or adopt the resolution with such modification as the Council deems necessary, the resolutions as an ordinance of the city. If any changes in ward boundaries are adopted by City Council, such changes shall also be adopted by ordinance and codified in the Code of the City of Norman. In any alteration or amendment of the resolution as proposed by the Reapportionment Commission, the City Council shall use the same criteria for ward boundaries as hereinabove adopted for the use of the Reapportionment Commission.

Thereupon, the new wards and boundaries shall supersede the previous wards and boundaries for purposes of the next primary and general election, and for all other purposes on the day on which the terms of the Councilmembers elected that year begin.

Section 6. – Annexed territory; reapportionment between census report.

When territory is annexed to the City, the Reapportionment Commission, by resolution in the manner provided hereinabove, shall incorporate it into the adjacent ward or wards or shall readjust the wards and boundaries in the manner provided hereinabove, as it deems appropriate.

~~Further the Commission may, at other periods than those set out above, in the manner and upon the basis stated and provided for herein, alter the boundaries of the wards when an increase, decrease, or shift in residence of the population of the City, or other substantial change in the criteria set out above.~~